

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

MISTY WHITE, et al.  
Plaintiffs,

v.

HON. PAUL HESSE, in his official  
capacity as Chief Judge of the 26<sup>th</sup>  
Judicial District, et al.,  
Defendants.

Case No: CIV-19-1145-JD  
(Class Action)

**DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY TO  
MOTION TO DISMISS AND BRIEF IN SUPPORT**

For their Notice of Supplemental Authority to Defendants' Motion to Dismiss [Doc. No. 68], Defendants Hesse and Strubhar state the following.

1. On March 31, 2023, the Fifth Circuit, *en banc*, issued an opinion in *Daves v. Dallas County, Texas*, 64 F.4th 616, wherein the Fifth Circuit overruled *ODonnell v. Harris Cnty.*, 892 F.3d 147, and remanded to the district court with instructions to dismiss based upon *Younger* abstention grounds. *See Daves Opinion*, Exhibit 1.
2. On June 21, 2023, the Fifth Circuit issued an opinion in *Little v. Doguet*, 71 F.4th 340, wherein the Fifth Circuit vacated the judgment entered after a bench trial on the merits with instructions to dismiss the matter based upon *Younger* abstention grounds. *See Little Opinion*, Exhibit 2.
3. On March 31, 2023, the United States District Court for Utah filed an opinion in *Medina v. Allen*, 4:21-cv-00102-DN-PK, 2023 WL 2743137, wherein the district court dismissed the amended petition that alleged causes of action similar to this

matter on the basis of failure to state a claim under the Fourteenth Amendment for procedural or substantive due process, and equal protection and under the Sixth Amendment. *See Medina* Opinion, Exhibit 3. This opinion is currently on appeal to the Tenth Circuit in case number 23-4057.

Respectfully submitted,

s/ Erin M. Moore

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### **CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of August, 2023, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to all counsel of record, who are ECF registrants.

/s/Erin M. Moore

**Erin M. Moore**